

## REMARKS

Claims 1-27 are pending in the application. By this amendment, claims 15, 17, and 19-27 have been withdrawn from consideration as pertaining to a non-elected group, and canceled to facilitate prosecution of the current application. Claims 16 and 18 have been amended to render the claims of Examiner's group I clearly distinct of non-elected claims, and to remove dependencies from herein-cancelled claims. Support for the amendments to these claims can be found at least in the original claims as filed with the application.

In addition, a replacement Sequence Listing is entered into the specification, as discussed more fully below.

No new matter is introduced by these amendments or the ATCC deposit. After entry of this amendment, **claims 1-11, 14, 16, and 18 are pending in the application.**

### **Election of Examiner's Group I**

Applicants elect Examiner's Group I (claims 1-11, 14, 16, and 18; purified protein having desaturase activity). Applicants expressly reserve the right to pursue protection of subject matter in the other Examiner's groups in a later application. In no way is this intended to be an admission that the remaining Groups are directed to different respective inventions, and Applicants reserve the right to argue against the remainder of the Restriction Requirement in a later application.

### **Deposit of Vector pJW541**

Plasmid vector pJW541, which contains the  $\Delta^8$ -desaturase sequence, has been deposited in the American Type Culture Collection (10801 University Boulevard, Manassas, VA 20110) on May 20, 2003 (ATCC Accession Number PTA-5206). Applicants assert that the ATCC deposit is a proper deposit of biological material because plasmid vector pJW541 is described beginning at page 29, line 2 in U.S. Provisional Application No. 60/111,301, filed December 7, 1998, beginning at page 23, line 25, in published PCT Application No. US99/28655, filed December 6, 1999, from which the current application (09/857,583, filed August 17, 2001)

claims priority, and in the current application (*e.g.*, beginning at page 23, line 25), thus providing antecedent basis for the deposit of plasmid vector pJW541, which has been deposited before the patent is granted (*see*, MPEP 2406.01 and *In re Lundak*, 773 F.2d 1216, 227 USPQ 90 (Fed. Cir. 1985)).

By amendment to the specification submitted herewith, the application has been updated to reflect the proper deposition of plasmid vector pJW541, which contains SEQ ID NO: 3.

### **Replacement of Sequence Listing**

Applicants submit herewith a replacement electronic copy (diskette) of the Sequence Listing and a corresponding paper copy (10 pages). In compliance with 37 C.F.R. § 1.821(f), the undersigned declares that the nucleotide sequences presented in the paper copy of the Sequence Listing submitted herewith are the same as the sequences contained in the computer-readable form of the Sequence Listing.

The replacement Sequence Listing is being submitted to correct minor and readily discernable sequencing errors in the sequence of the  $\Delta^8$ -desaturase (SEQ ID NO: 3 and the encoded SEQ ID NO: 4) as originally submitted. These errors have been corrected based on the resequencing of plasmid vector pJW541, which is described in the specification. This plasmid has been properly deposited with the ATCC, as stated above.

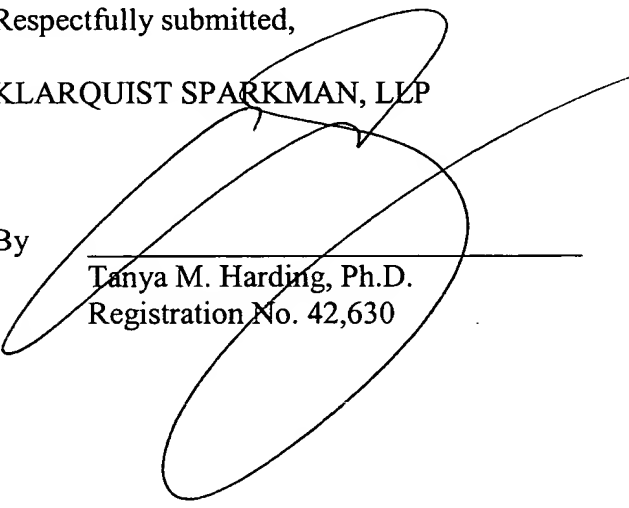
## CONCLUSIONS

Examiner Rao is invited to telephone the undersigned if any questions remain concerning the requirement for restriction, or the replacement Sequence Listing submitted herewith. Otherwise, the present application is ready for substantive examination, and such action is requested.

Respectfully submitted,

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By



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